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# HOUSE BILL No. 1787

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 9-17.

**Synopsis:** Motor vehicle certificates of title. Permits an automobile auctioneer, transfer dealer, or dealer licensed by the state to apply for a certificate of title by a stated procedure for a vehicle owned or transferred by the automobile auctioneer, transfer dealer, dealer, or another person. Provides a civil penalty for an automobile auctioneer, transfer dealer, or dealer who fraudulently obtains a vehicle title, and permits the bureau of motor vehicles to institute a civil action for recovery of the civil penalty. Permits a person who repossesses a motor vehicle to obtain a certificate of title by a stated procedure without regard to the repossessing person's state of residence or business.

**Effective:** July 1, 2001.

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## Liggett

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January 17, 2001, read first time and referred to Committee on Roads and Transportation.

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Introduced

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

## HOUSE BILL No. 1787

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 9-17-2-1.5 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2001]: **Sec. 1.5. An automobile auctioneer, transfer dealer, or  
4 dealer having a current license under IC 9-23-2 may apply for and  
5 obtain a certificate of title on that person's behalf or on behalf of  
6 another person for all vehicles owned or transferred by the  
7 automobile auctioneer, transfer dealer, dealer, or other person,  
8 regardless of the applicant's place of business or the physical  
9 location of the vehicle, by submitting to the bureau:**  
10 (1) an application for title;  
11 (2) an affidavit of ownership showing that the automobile  
12 auctioneer, transfer dealer, dealer, or other person is entitled  
13 to the certificate of title;  
14 (3) an affidavit from the automobile auctioneer, transfer  
15 dealer, dealer, or other person confirming compliance with  
16 the statutes governing repossession in the state where the  
17 vehicle is located;



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(4) an affidavit indicating whether the vehicle currently has or should have a title notation, including a notation as to whether the vehicle is:

(A) salvage;

(B) rebuilt;

(C) junk; or

(D) flood damaged; and

(5) any additional material required by statute or by rules adopted by the bureau under IC 4-22-2.

SECTION 2. IC 9-17-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. (a) If an application for a certificate of title is for a vehicle brought into Indiana from or located in another state, the application must be accompanied by:

(1) the certificate of title issued for the vehicle by the other state; if the other state has a certificate of title law; or

(2) a sworn bill of sale or dealer's invoice fully describing the vehicle and the most recent registration receipt issued for the vehicle; if the other state does not have a certificate of title law; or

or

(3) a copy of a retail installment agreement or other security instrument certified by the applicant, demonstrating that the applicant has a lien on or other interest in the vehicle.

(b) In addition to the requirements of subsection (a), an applicant must submit an affidavit indicating whether the vehicle currently has or should have a title notation, including a notation as to whether the vehicle is:

(1) salvage;

(2) rebuilt;

(3) junk; or

(4) flood damaged.

(c) If a vehicle is being titled by or through a dealer, transfer dealer, or automobile auctioneer (as defined in section 7 of this chapter), a police inspection or other additional information is not required to be provided with the application.

(d) A title may not be issued for a vehicle unless the bureau has conducted a National Crime Information Center (NCIC) stolen motor vehicle check and has communicated any adverse results to the state police department.

(e) Submission of a fraudulent affidavit or application under this section subjects the affiant or the applicant, or both, to civil liability for all damages incurred by a subsequent purchaser or transferee of title, including reasonable attorney's fees and court

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SECTION 3. IC 9-17-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 9. **(a) Except as provided in subsection (b), a person applying for a certificate of title must:**

- (1) apply for registration of the vehicle described in the application for the certificate of title; or
- (2) transfer the current registration of the vehicle owned or previously owned by the person.

**(b) If a vehicle is being titled by or through a dealer, transfer dealer, or automobile auctioneer for purposes of resale or transfer, a registration is not required to transfer the title.**

SECTION 4. IC 9-17-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 12. (a) As used in this section, "dealer", ~~refers~~ **"transfer dealer", and "automobile auctioneer" refer to a dealer an entity** that has:

- (1) been in ~~the~~ **business of selling, transferring, or assisting in the transfer of motor vehicles** for not less than five (5) years; ~~and~~
- (2) sold, ~~transferred, or assisted in the transfer of~~ not less than one hundred fifty (150) motor vehicles during the preceding year; ~~and~~

**(3) a current license under IC 9-23-2.**

(b) This section does not apply to the following:

- (1) A new ~~or used~~ motor vehicle or recreational vehicle sold:
  - ~~(A) by or through a dealer; licensed by the state;~~
  - (B) by or through a transfer dealer; or**
  - (C) by or through a licensed automobile auctioneer.**
- (2) A motor vehicle or recreational vehicle transferred or assigned on a certificate of title issued by the bureau.
- (3) A motor vehicle that is registered under the International Registration Plan.

(c) An application for a certificate of title for a motor vehicle or recreational vehicle may not be accepted by the bureau unless the motor vehicle or recreational vehicle has been inspected by one (1) of the following:

- (1) An employee of a dealer designated by the bureau to perform an inspection.
- (2) A military policeman assigned to a military post in Indiana.
- (3) A police officer.
- (4) A designated employee of the bureau.

(d) A person described in subsection (c) inspecting a motor vehicle, semitrailer, or recreational vehicle shall do the following:

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(1) Make a record of inspection upon the application form prepared by the bureau.

(2) Verify the facts set out in the application.

SECTION 5. IC 9-17-2-17 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 17. In addition to any other penalty imposed under this chapter, an automobile auctioneer, transfer dealer, or dealer who fraudulently obtains a title for a vehicle under section 1.5 of this chapter is subject to a civil penalty of not less than five hundred dollars (\$500) and not more than one thousand dollars (\$1,000) for each act of violation, as determined by the court. All civil penalties recovered under this chapter shall be deposited in the state general fund.**

SECTION 6. IC 9-17-2-18 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 18. If a dealer, transfer dealer, or automobile auctioneer violates or aids, induces, or causes a violation of section 1.5 of this chapter, the dealer's, transfer dealer's, or automobile auctioneer's license may be suspended or revoked in the manner provided for the suspension or revocation of licenses under IC 9-23-2-14.**

SECTION 7. IC 9-17-2-19 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 19. If a person violates this chapter or a rule or an order of the bureau issued under this chapter, the bureau may institute a civil action in any circuit or superior court of Indiana for injunctive relief to restrain the person from continuing the activity or for the assessment and recovery of a civil penalty under section 17 of this chapter, or both.**

SECTION 8. IC 9-17-2-20 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 20. At the request of the bureau, the attorney general shall institute and conduct an action in the name of the state:**

- (1) to recover the civil penalty under section 17 of this chapter;
- (2) for injunctive relief under section 19 of this chapter; or
- (3) for the remedies described in both subdivisions (1) and (2).

SECTION 9. IC 9-17-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 2. (a)** A person who holds a lien on a motor vehicle, semitrailer, or recreational vehicle who has repossessed the motor vehicle, semitrailer, or recreational vehicle and wants to obtain a certificate of title for the motor vehicle, semitrailer,

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or recreational vehicle in the person's name **without regard to the repossessing person's state of residence or business** may obtain the certificate of title from the bureau if:

(1) the person from whom the motor vehicle, semitrailer, or recreational vehicle has been repossessed is shown ~~by the records of the bureau~~ to be the last registered owner of the motor vehicle, semitrailer, or recreational vehicle **on the repossessing person's title application and any materials submitted with the title application; and**

(2) the person who holds the lien ~~establishes to the satisfaction of~~ **submits an application of ownership establishing to the satisfaction of** the bureau that the person is entitled to the certificate of title; **and**

(3) ~~submitted with the title application is an affidavit from the person holding the lien that indicates whether the motor vehicle, semitrailer, or recreational vehicle has or should have a title notation, including a notation as to whether the vehicle is:~~

(A) salvage;

(B) rebuilt;

(C) junk; or

(D) flood damaged.

(b) Notwithstanding IC 9-17-2-9, when a repossessing person applies for a certificate of title for a motor vehicle, semitrailer, or recreational vehicle, the repossessing person is not required to apply for a registration if the repossessing person holds the motor vehicle, semitrailer, or recreational vehicle for resale.

(c) A repossessing person and the person from whom the motor vehicle, semitrailer, or recreational vehicle has been repossessed are not required to have an Indiana address for the bureau upon application to issue a certificate of title for the motor vehicle, semitrailer, or recreational vehicle.

(d) A repossession title shall not be issued for a vehicle unless the bureau has conducted a National Crime Information Center (NCIC) stolen motor vehicle check and has communicated any adverse results to the state police department.

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